

right of the landowner to sell his or her land. The willing-seller language in my legislation reiterates the basics of contract law—in order to have a valid contract, there must be an exchange. In the case of H.R. 834, no contract is valid unless the landowner receives compensation for his or her land. I worked extensively in the last Congress with the gentleman from California, Representative POMBO, a long-time champion of private property rights, to ensure that the property rights aspects of the legislation were both comprehensive and concise. This much anticipated legislation is essential in protecting valuable resources and rights-of-way critical to the integrity and continuity of these trails. In enacting the National Trails System Act, Congress provided for a national system of trails rather than just a national designation for trails. H.R. 834 enables the federal agencies administering these trails to respond to conservation, recreation and historic education opportunities afforded by willing landowners in an effort to create and manage a consistent national system of trails. I would like to extend special recognition to several individuals in Colorado, Bruce and Paula Ward, who have given deep devotion to the Continental Divide Trail. In addition, I'd like to recognize Gary Werner of the Partnership for the National Trails System. Without their efforts our progress on this legislation would not have been the success it is today. Mr. Speaker, in closing, I'd like to again thank Chairman HANSEN and Chairman HEFLEY and the staff of the Parks and Public Lands Subcommittee, and urge passage of H.R. 834.

Mr. UDALL of Colorado. Mr. Speaker, as a cosponsor of this bill, I rise in its support. I also want to commend my colleague from Colorado, Mr. MCINNIS, for his initiative and persistence in connection with this legislation.

The bill makes a modest but very important improvement in the laws that govern the National Trails system. It would relax the current restrictions that now limit the ability of the federal government to acquire lands needed for proper management of some trails.

Under the bill, the federal government would be authorized to acquire appropriate lands from willing sellers. The bill would not authorize use of condemnation to acquire any lands.

Among the trails covered by the bill is the Continental Divide National Scenic Trail, which runs from Canada to Mexico along the spine of the continent—the Continental Divide that separates the drainages of the Pacific Ocean and Gulf of California from that of the Atlantic Ocean and the Gulf of Mexico.

That trail runs through the heart of Colorado, from our border with Wyoming to the New Mexico state line. Over the years, the Forest Service, assisted by thousands of volunteers organized by the Continental Trail Alliance, has worked to complete it and to make it available to all who would travel along it through some of America's most remarkable wild country.

This bill will greatly assist in that effort by allowing private landowners who wish to do so to provide easements or other interests in lands for the purposes of this and the other trails covered by the bill. I urge its adoption.

Mr. BLUMENAUER. Mr. Speaker, our National Trails System promotes wilderness appreciation, historic preservation and a healthy

lifestyle, which are all key components of livable communities. H.R. 834, the National Trails System Willing Seller Act, is an important bill that restores parity to the National Trails System and provides authority to protect critical resources along the nation's treasured scenic and historic trails. Passage of this bill will ensure that the federal government can be a better partner with trails advocates and private property owners across the nation.

Acquiring land from willing sellers to complete nine national scenic and historic trails, including the Oregon and Lewis and Clark trails, is of vital interest to my constituents in Oregon. As the nation begins its focus on the bicentennial of Lewis & Clark's Corps of Discovery trip to the Pacific Ocean, purchasing and preserving historic sites along their journey will serve generations to come.

Without willing seller authority, federal trail managers' hands are tied when development threatens important links in the wild landscapes of the trails or in the sites that tell the stories of the historic trails. With willing seller authority, sections of trails can be moved from roads where trail users are potentially unsafe, and critical historic sites can be preserved for future generations to experience. Ensuring safety and access for the many families and individuals who enjoy our national trails is certainly an important effort and one that this Congress should support.

I urge my colleagues to support H.R. 834.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 834.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HANSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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#### PROVIDING FOR ACQUISITION OF PROPERTY IN WASHINGTON COUNTY, UTAH

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 880) to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan.

The Clerk read as follows:

H.R. 880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ACQUISITION OF CERTAIN PROPERTY IN WASHINGTON COUNTY, UTAH.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective 30 days after the date of the enactment of this Act, all

right, title, and interest in and to, and the right to immediate possession of, the 1,516 acres of real property owned by Environmental Land Technology, Ltd. (ELT), within the Red Cliffs Reserve in Washington County, Utah, and the 34 acres of real property owned by ELT which is adjacent to the land within the Reserve but is landlocked as a result of the creation of the Reserve, is hereby vested in the United States.

(b) COMPENSATION FOR PROPERTY.—Subject to section 309(f) of the Omnibus Parks and Public Lands Management of 1996 (Public Law 104-333), the United States shall pay just compensation to the owner of any real property taken pursuant to this section, determined as of the date of the enactment of this Act. An initial payment of \$15,000,000 shall be made to the owner of such real property not later than 30 days after the date of taking. The full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of—

(1) the appraised value of such real property as agreed to by the land owner and the United States, plus interest from the date of the enactment of this Act; or

(2) the valuation of such real property awarded by judgment, plus interest from the date of the enactment of this Act, reasonable costs and expenses of holding such property from February 1990 to the date of final payment, including damages, if any, and reasonable costs and attorneys fees, as determined by the court. Payment shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, or from another appropriate Federal Government fund.

Interest under this subsection shall be compounded in the same manner as provided for in section 1(b)(2)(B) of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b(b)(2)(B)), except that the reference in that provision to "the date of the enactment of the Manassas National Battlefield Park Amendments of 1988" shall be deemed to be a reference to the date of the enactment of this Act.

(c) DETERMINATION BY COURT IN LIEU OF NEGOTIATED SETTLEMENT.—In the absence of a negotiated settlement, or an action by the owner, the Secretary of the Interior shall initiate within 90 days after the date of the enactment of this section a proceeding in the United States Federal District Court for the District of Utah, seeking a determination, subject to section 309(f) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), of the value of the real property, reasonable costs and expenses of holding such property from February 1990 to the date of final payment, including damages, if any, and reasonable costs and attorneys fees.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Guam (Mr. UNDERWOOD) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 880 is a voluntary legislative taking of approximately 1,550 acres of land in Washington County, Utah. The land is located in the Red

Cliffs Preserve, which is the designated habitat conservation area set aside in Utah to protect the endangered desert tortoise.

The Red Cliffs Reserve also happens to be located in Washington County, the fastest growing county in Utah. The owner of this property has been unable to sell, trade or develop this property for years because of the actions of the Fish and Wildlife Service and the Bureau of Land Management's inability to exchange this owner out of the preserve. In fact, \$15 million was appropriated by the 105th Congress to buy this land, but the former administration unwisely chose to spend the money in other areas, rather than protecting habitat for this endangered species.

This disagreement goes back to 1983 when Environmental Land Technology, Ltd. acquired 2,440 acres of school trust lands located just north of St. George, Utah, intended for residential and recreational development. Environmental Land Technology began to develop the property by purchasing water rights while conducting the requisite series of appraisals, cost estimates, and surveys.

Unfortunately, shortly thereafter, the desert tortoise was designated as threatened under the Endangered Species Act. Following years of negotiations, in 1996, a Habitat Conservation Plan and Implementation Agreement for the desert tortoise was reached between the BLM, Fish and Wildlife, Washington County, and the State of Utah. As part of that agreement, the Bureau of Land Management assumed the obligation to acquire from willing sellers approximately 12,600 acres of non-Federal land to create the Red Cliffs Reserve for the protection of the desert tortoise. The lands described in this legislation are part of that original obligation.

Since that time, the BLM has been able to acquire most of the property in the area, except for the property owned by ELT. After a series of extensive land exchanges, BLM now has insufficient land available for an interstate transfer with ELT. For the past 10 years, ELT has paid taxes and interest on its property without the ability to sell or develop that land or even set foot on it.

This legislation-taking would include the 1,516 acres located within the reserve, and 34 acres adjacent to the reserve, all of which is owned by ELT. Mr. Speaker, H.R. 880 authorizes the United States to acquire the title of this property, which would then eliminate the last private inholding within the Red Cliff Reserve.

I want to emphasize to Members on both sides of the aisle that this is a voluntary taking and is fully supported by the owner and is supported by BLM.

Mr. Speaker, we held hearings on this legislation last year. At that time, several concerns were raised by the administration and by the minority re-

garding the issue of valuation. The discussion centered around what was the true value of the property and whether either the Federal Government or the property owner was being treated fairly.

That very issue is what has held up the completion of the HCP itself for years. What this legislation does is provides initial compensation well below the estimated value of the property to the property owner, preventing the property from reverting to creditors. After the initial settlement, absent any action by the property owner or the Secretary of the Interior, the valuation issue is then moved into Federal court where the remaining unsettled value of the property will then be determined. The court, not Congress, not BLM, not the property owner, will make this determination. While all of the parties involved would have liked to avoid going to court, unfortunately, this is the best way to resolve this issue.

Mr. Speaker, H.R. 880 is identical to the legislation passed under suspension of the rules in the last Congress. We have incorporated the same amendments that were made to this legislation last year.

Mr. Speaker, this is a good bill; and I strongly urge my colleagues to support H.R. 880 and get this thing over with.

Mr. Speaker, I reserve the balance of my time.

Mr. UNDERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 880, introduced by the gentleman from Utah (Mr. HANSEN), is a legislative-taking. The bill mandates that 30 days after enactment, all right, title, and interest to 1,550 acres of private land in Utah will vest in the United States. This legislation is identical to a measure, H.R. 4721, which passed the House on October 3, 2000, but which the Senate did not act upon prior to adjournment.

A legislative-taking is an extraordinary procedure used by the Congress only a few times in the past 25 years. Further, the language of this particular taking is substantially different from that used in other rare cases.

There has been an ongoing controversy associated with the land identified by the legislation. Title to the property had been clouded for years; and the land has been the subject of significant litigation, as outlined by the Chair. While everyone agrees that the land in question should be acquired, there are still differences regarding how it should be done. Negotiations to acquire the property have been hampered by the landowner's insistence on using appraisal assumptions that are inconsistent with Federal acquisition standards.

The previous administration testified in opposition to this measure last year,

stating its concern that the bill provides preferential treatment to one landowner and provides compensation above and beyond that received by other landowners. We do not have the views of the new administration, but I can guess what they might be.

Mr. Speaker, while there is still some question on certain provisions of H.R. 880, we do not object to consideration of the measure by the House today. However, we hope that some of these matters can be addressed before the bill is finalized and presented to the President.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 880.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### GUAM WAR CLAIMS REVIEW COMMISSION ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 308) to establish the Guam War Claims Review Commission, as amended.

The Clerk read as follows:

H.R. 308

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam War Claims Review Commission Act".

#### SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Guam War Claims Review Commission" (in this Act referred to as the "Commission").

(b) MEMBERS.—The Commission shall be composed of five members who by virtue of their background and experience are particularly suited to contribute to the achievement of the purposes of the Commission. The members shall be appointed by the Secretary of the Interior not later than 60 days after funds are made available for this Act. Two of the members shall be selected as follows:

(1) One member appointed from a list of three names submitted by the Governor of Guam.

(2) One member appointed from a list of three names submitted by the Guam Delegate to the United States House of Representatives.

(c) CHAIRPERSON.—The Commission shall select a Chairman from among its members. The term of office shall be for the life of the Commission.

(d) COMPENSATION.—Notwithstanding section 3, members of the Commission shall not be paid for their service as members, but in the performance of their duties, shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.